IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT No. 2224 of 1982

C.N. Dinshaw & Anr. .. Plaintiffs

versus

R. Mato Gupta & Ors. .. Defendants

...

Mr.Kantilal Kanojia i/b P.N. Patwardhan for the plaintiff.

None for the defendants.

CORAM : D.G. KARNIK, J

DATED : 13th July 2006.

P.C.:

1. By the order dated 15th June 2006, plaintiffs were directed to adduce evidence in support of their case. Despite the order, plaintiffs have not adduced the evidence nor are the plaintiffs present in the court. Their counsel reports inability to adduce evidence in the absence of the plaintiffs.

2. Counsel states that plaintiffs want to amend the plaint and the evidence would be adduced only after the amendment. Chamber Summons no.577 of 2004 taken out by the plaintiffs for amendment has already been allowed, by the order dated 19th November 2005. The plaintiffs were directed to carry out the amendment within two weeks which Plaintiffs have not done though more than six months have passed. Therefore, the excuse that plaintiffs cannot adduce the evidence because plaintiffs want to carry out the amendment is not acceptable.

3. Since the plaintiffs are absent and no evidence is adduced when called though the suit is listed for hearing, the suit is dismissed under Order 9 Rule 3 of the Code of Civil Procedure.

(D.G. KARNIK, J)